

JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

BRIAN J. STRETCH (CSBN 163973)
Chief, Criminal Division

STEPHANIE M. HINDS (CSBN 154284)
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, CA 94102
Telephone: (415) 436-6816
Facsimile: (415) 436-6748
email: stephanie.hinds@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

REAL PROPERTY AND IMPROVEMENTS
LOCATED AT 166 LOS ROBLES DRIVE,
BURLINGAME, CALIFORNIA, et al.

Defendants.

No. C 05-4185 SC

~~PROPOSED~~ ORDER OF
FORFEITURE

Based upon the stipulation for forfeiture filed in this action on February 21, 2008, all pleadings filed herein, the Court hereby makes finds, by a preponderance of the evidence, as follows:

1. This order addresses the resolution of the pending forfeiture proceedings (administrative or judicial) against the following assets (collectively hereinafter referred to as "subject property"):

- a. real property and improvements located at 166 Los Robles Drive, Burlingame, California;
- b. \$250,000 in United States Currency
- c. \$9,881 in United States Currency
- d. 2005 Toyota Highlander SUV
- e. 2002 Lexus ES 300 Sedan

2. Eric Cai has an ownership interest in the subject property listed as items a-d.

1 3. Zhaoren Cai has an ownership interest in the subject property listed as items a and e.

2 4. Third-Party Claimant, CitiMortgage, has a valid lienholder interest in the defendant real
3 property located at 166 Los Robles Avenue, Burlingame, California

4 5. Eric Cai admits that he participated in a conspiracy to import and distribute controlled
5 substances and launder illicit criminal proceeds and that the subject property listed as items a-d was
6 derived from and traceable to his criminal activities. The Court thus finds that the subject property listed
7 as items a-d is forfeitable under Title 21, United States Code, Sections 881(a)(6), as property which
8 constitutes and is traceable to drug proceeds, and pursuant to Title 18, United States Code, Section
9 981(a)(1), as property involved in and traceable to money laundering offenses.

10 Accordingly, IT IS HEREBY ORDERED that items a-d of the subject property shall be and hereby
11 is forfeited to the United States pursuant to Title 21, United States Code, Section 881(a)(6) and Title 18,
12 United States Code, Section 981(a)(1);.

13 IT IS FURTHER ORDERED that the 2002 Lexus 300 ES Sedan (item e) shall be returned to
14 Claimant Zhaoren Cai, by and through his attorney, Randy Montesano, whose business address is 214
15 Duboce Avenue, San Francisco, California 94103;

16 IT IS FURTHER ORDERED that within 120 days of the Court's entry of a final order of forfeiture
17 authorizing the sale of the defendant real property and prior to the closing of escrow, Plaintiff will pay
18 CitiMortgage the following:

- 19 i) all unpaid interest at the contractual rate (not default rate) as specified in the Note until the
20 date of payment (as of October 30, 2007, \$41,233.07 was owing in interest on the Note);
21 ii) all unpaid principal due and owing under the Note (as of October 30, 2007, \$591,010.52 was
22 the amount of principal due and owing);
23 iii) all unpaid late charges due and owing under the Note (as of October 30, 2007, \$2,517.45,
24 was the amount owing);
25 iv) all delinquency expenses due and owing under the Note (as of October 30, 2007, \$657.80
26 was due and owing);
27 v) attorneys fees and costs allowable under the Note not to exceed \$7,000; and
28

1 vi) any additional expenses authorized under the Note and reflected in the final payoff
2 statement, provided those expenses are deemed necessary, but neither the government nor the
3 Cais will unreasonably object to adding such additional expenses.

4 IT IS FURTHER ORDERED that Third Party Claimant CitiMortgage will provide the United States
5 and/or its designee with a current payoff statement within 14 days following the Court's entry of the final
6 order of forfeiture;

7 IT IS FURTHER ORDERED that upon the entry of a final order of forfeiture and the sale of the
8 captioned defendant real property located at 166 Los Robles, the parties agree that the distribution of the
9 net sale proceeds as follows in this order of priority:

- 10 a. The United States will arrange for the sale of the captioned real property and will
11 be compensated for its costs and fees incurred as a result of the maintenance and
12 sale of the captioned real property;
- 13 b. Claimant Zhaoren Cai shall be paid \$57,000 which represents the balance remaining on a
14 equity line for the captioned real property, less the amount due and owing in arrears on the
15 mortgage at the time of the execution of this agreement;
- 16 c. Claimants Eric Cai, Zhaoren Cai and CitiMortgage consent to the forfeiture of the remaining
17 net proceeds from the sale of the defendant property. The remaining net proceeds shall be
18 paid to United States in the form of a cashier's check made payable to the Department of
19 Homeland Security, Immigration and Customs Enforcement (or their designee) and
20 forwarded to the United States Attorney's Office, Attn: AUSA Stephanie Hinds, 450 Golden
21 Gate Avenue, 9th Floor, San Francisco, California 94102.

22 IT IS FURTHER ORDERED that such payment to CitiMortgage as set forth above shall be in full
23 settlement and satisfaction of any and all claims by CitiMortgage to the captioned defendant real
24 property and all claims resulting from the incidents or circumstances giving rise to this lawsuit;

25 IT IS FURTHER ORDERED that upon payment to CitiMortgage as set forth above, CitiMortgage
26 agrees to release any and all claims arising out of this action against the United States and agrees to not
27 to pursue against the United States any other rights it may have under the Note, including the right to
28 foreclose on the captioned defendant real property.

IT IS FURTHER ORDERED that such payment to Claimant Zhaoren Cai as set forth above shall be
in full settlement and satisfaction of any and all claims by Claimant Zhaoren Cai to the captioned

1 defendant real property and all claims resulting from the incidents or circumstances giving rise to this
2 lawsuit

3 IT IS FURTHER ORDERED that Claimants Eric Cai and Zhaoren Cai shall hold harmless the
4 United States of America, the Internal Revenue Service, the Drug Enforcement Administration, the
5 Department of Homeland Security, Immigration and Customs Enforcement, and all agents, officers and
6 employees thereof, including any and all state and local law enforcement officers, for any and all acts
7 directly or indirectly related to the seizure, detention and forfeiture of the subject property;

8 IT IS FURTHER ORDERED that the parties shall execute further documents, to the extent
9 necessary, to convey clear title to the captioned defendant real property to the United States and to
10 further implement the terms of this agreement.

11 IT IS FURTHER ORDERED that all right, title and interest in the property ordered forfeited is
12 hereby vested in the United States of America. The United States shall dispose of the forfeited property
13 according to law.

14
15 IT IS SO ORDERED.

16 DATED: 4/3/08
17 _____



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21 Approved as to form:

22 Randy Montesano
23 RANDY MONTESANO
24 Attorney for Eric and Zhaoren Cai

25 Michael Chang
26 MICHAEL CHANG
27 Attorney for CitiMortgage
28

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21 Approved as to form:

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23 RANDY MONTESANO
Attorney for Eric and Zhaoren Cai

24
25 MICHAEL CHANG
Attorney for CitiMortgage
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